



# Whistleblower Policy

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## 1. Introduction

### 1.1 Purpose

The purpose of this policy is to encourage reporting of wrongdoing at the School (see 1.3 below) by providing a safe reporting mechanism and confidence that those who disclose will be protected and supported.

### 1.2 Rationale

The School is committed to the highest standards of conduct and ethical behaviour, and promoting a culture of honesty and transparency, along with good corporate governance.

The School acknowledges that people who work in an organisation are often the first to uncover an underlying problem and they are therefore a potential invaluable source of information. However, such a person may be reluctant to report wrongdoing for fear of appearing disloyal or they may be concerned about being victimised or suffering detriment.

The School encourages the reporting of unethical, illegal, fraudulent or undesirable conduct or any other improper state of affairs and provides protections so that anyone who makes a report may do so confidentially - and anonymously if they wish - without fear of intimidation, disadvantage or reprisal.

By providing a safe reporting culture and environment, the School positively invites feedback which can lead to prompt rectification of any underlying issues and continuous improvement of its corporate compliance practices.

### 1.3 Scope

This policy is intended to apply to the St Andrew's Cathedral School group of organisations including:

- The Council of St Andrew's Cathedral School;
- St Andrew's Cathedral Gawura School;
- St Andrew's Cathedral School Foundation Ltd;
- Old Andreans Association; and
- The Association of Parents and Friends

with the above collectively referred to in this policy as "the School".

### 1.4 Availability of Policy

This policy will be published on the School website and made available to all School staff (which includes employees, contractors and volunteers) and Council members.

## 1.5 Related policies

- Complaints or allegations of staff misconduct that do not meet the criteria of a whistleblowing disclosure will be addressed in accordance with the School's *Complaints Handling Policy and Procedures*.
- Disclosures about reportable conduct will be addressed in accordance with the School's *Child Protection Policy*.
- Disclosures regarding a grievance between staff members about work matters, including work relationships and decisions made by other staff members which impact on their work, may be addressed in accordance with the School's *Staff Grievance Policy*.
- Unlawful discrimination, harassment or bullying complaints may be addressed in accordance with the School's *Bullying, Harassment and Discrimination Policy*.

## 2. What is a qualifying disclosure?

A **qualifying disclosure** is when an **eligible whistleblower** makes a disclosure to an **eligible recipient**, and the eligible whistleblower has **reasonable grounds to suspect** that the information concerns a **disclosable matter**.

## 3. Who may make a qualifying disclosure?

### 3.1 Eligible whistleblowers

An eligible whistleblower is an individual who is - or has been formerly - any of the following in relation to the School:

- a School Council member;
- a director of St Andrew's Cathedral School Foundation Ltd;
- an employee;
- a consultant;
- a person who supplies goods or services (whether paid, unpaid or voluntary);
- an employee of a person who supplies goods or services (paid, unpaid or voluntary);
- an individual who is an associate of the School (as defined in the *Corporations Act*) including parents and students past and present; and
- a relative or dependant (or dependants of a spouse) of any individual described above.

### 3.2 Anonymous disclosures

A disclosure may be made anonymously and still be protected under the *Corporations Act*. A discloser may choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is



finalised. However, this may make it difficult to investigate the matter thoroughly. Accordingly, the School encourages disclosers to provide their name and contact details.

If a discloser wishes to disclose anonymously, the discloser should provide sufficient information to allow the matter to be properly investigated. The School encourages the discloser to provide an anonymous email address through which additional questions can be asked and information provided. It will also allow the School to report the progress of the investigation to the discloser, as appropriate.

## 4. Disclosable matters that qualify for protection

### 4.1 Disclosable matters

A disclosable matter is a disclosure of information where the eligible whistleblower has reasonable grounds to suspect that the information relating to the School or a related company concerns:

- misconduct;
- an improper state of affairs or circumstances;
- illegal activity (including conduct of officers and employees) - meaning activity in breach of the *Corporations Act* or specified financial services legislation, or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more; or
- conduct (including conduct of officers and employees) that represents a danger to the public or financial system.

This may include any conduct in relation to the operation of the School that involves:

- fraudulent activity;
- negligence;
- unlawful or corrupt use of school funds;
- breach of duty;
- serious and/or ongoing breaches of the School's approved Policies or Procedures;
- improper accounting or financial reporting practices; or
- systemic practices that pose a serious risk to the health and safety of any person on school premises or during school activities.

If a disclosure is not about a disclosable matter, it will not qualify for whistleblower protection under the *Corporations Act*.

### 4.2 Reasonable grounds to suspect

Whether a discloser would have 'reasonable grounds to suspect' is based on the reasonableness of the reasons for the discloser's suspicion, having regard to all the circumstances when considered objectively.

If a disclosure is made without 'reasonable grounds to suspect', the disclosure will not be a qualifying disclosure and the discloser will not have the protections provided for under this policy and the *Corporations Act*. Any deliberate false reporting will be regarded very seriously.

A discloser can still qualify for protection even if their disclosure turns out to be incorrect.

### 4.3 Personal work-related grievances

Generally, disclosures that concern personal work-related grievances do not qualify for protection. A disclosure will concern a personal work-related grievance of the discloser if the information:

- concerns a grievance about any matter in relation to the discloser's employment, or former employment, having or tending to have implications for the discloser personally; and
- does not have significant implications for the School that do not relate to the discloser; and
- does not concern conduct that is:
  - an alleged contravention of the *Corporations Act* and specified financial services laws; or
  - an offence against another law of the Commonwealth, which is punishable by imprisonment of 12 months or more; or
  - a danger to the public or financial system.

Examples of disclosures regarding personal work-related grievances that may not qualify for protection include:

- an interpersonal conflict between the discloser and another employee;
- a disagreement about work performance or workplace behaviour;
- a decision relating to the engagement, transfer or promotion of the discloser;
- a decision relating to the terms and conditions of engagement of the discloser;
- a decision to suspend or terminate the engagement of the discloser, or otherwise discipline the discloser.

These matters will be addressed in accordance with the School's *Staff Grievance Policy*.

However, a personal work-related grievance may still qualify for protection if:

- it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report);
- the entity has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances;
- the discloser suffers from or is threatened with detriment for making a disclosure; or
- the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the *Corporations Act*.

## 5. Qualifying disclosures

### 5.1 Eligible recipients

An eligible recipient is an individual who occupies any of the following roles, in relation to the School or a related entity:

- The Head of School (School-preferred recipient);
- The Chair of School Council (School-preferred recipient if Head of School is subject of disclosure);
- The Chair of St Andrew's Cathedral School Foundation Ltd;
- A director of St Andrew's Cathedral School Foundation Ltd; and
- The Director of People and Culture.

### 5.2 Making a qualifying disclosure

While an eligible whistleblower may make a disclosure directly to any eligible recipient, the School encourages them to make a disclosure in writing to the Head of School, via [hos@sacs.nsw.edu.au](mailto:hos@sacs.nsw.edu.au).

If it is not appropriate for the disclosure to be made to the Head of School, the eligible whistleblower is encouraged to make the disclosure, in writing, to the Chair of the School Council via [chair@sacs.nsw.edu.au](mailto:chair@sacs.nsw.edu.au).

Where a disclosure is made to an eligible recipient who is not the Head of School, then subject to the confidentiality protections set out at Section 7 below, it will generally be passed onto the Head of School and dealt with in accordance with Section 6 below.

If an eligible whistleblower wishes to obtain additional information about whistleblower procedures and protections before formally making their disclosure, they may contact the Head of School or an independent legal advisor.

### 5.3 External disclosures

Disclosures may also qualify for protection if they are made to ASIC, APRA or a prescribed Commonwealth authority, or if an eligible whistleblower makes a disclosure to a legal practitioner to obtain advice about the operation of the whistleblower provisions.

Eligible whistleblowers who make a 'public interest disclosure' or an 'emergency disclosure' also qualify for protection.

### 5.4 Vexatious disclosures

Trivial or vexatious disclosures will be treated as a false report and the discloser may not receive protection under this policy.

## 6. Investigating a qualifying disclosure

### 6.1 Receiving a disclosure

Upon receiving a disclosure, the recipient (generally the Head of School or Chairman of the School Council) will assess the disclosure to determine whether it qualifies for protection under the *Corporations Act* and is to be managed in accordance with this policy (qualifying disclosure) or the disclosure concerns matters that should be managed in accordance with related policies referred to in this policy.

### 6.2 Investigating a qualifying disclosure

The School will acknowledge receipt of a disclosure within a reasonable period, assuming the eligible whistleblower can be contacted (including through anonymous channels). The School will assess the disclosure to determine whether:

- it qualifies for protection under the *Corporations Act*; and
- an investigation is required - and if so, how that investigation should be carried out.

Generally, if an investigation is required, the School will determine:

- the nature and scope of the investigation;
- who should lead the investigation - including whether an external investigation is appropriate;
- the nature of any technical, financial or legal advice that may be required to support the investigation; and
- the anticipated timeframe for the investigation. Each investigation will be different, and this will impact on the applicable timeframe. However, the School's intent is to complete an investigation as soon as practicable.

Where practicable, the School will keep the eligible whistleblower informed of the steps taken or to be taken (or if no action is to be taken, the reason for this), and provide appropriate updates, including about the completion of any investigation. However, the extent of the information provided, or whether it will be provided at all, will be subject to applicable confidentiality considerations, legal obligations and any other factors the School considers relevant in the particular situation.

The School may not be able to undertake an investigation, or provide information about the process etc, if it is not able to contact the eligible whistleblower, for example, if a disclosure is made anonymously and has not provided a means of contact.

Where practicable, whistleblowers will receive updates about when the investigation has begun, while the investigation is in progress and after the investigation has been finalised. The frequency and timeframe of any updates may vary depending on the nature of the disclosure. The School will also have regard to confidentiality considerations when providing updates.

### 6.3 Fair treatment of employees mentioned in disclosures

The School will take steps to ensure the fair treatment of employees who are mentioned in a disclosure that qualifies for protection:

- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
- when an investigation needs to be undertaken, the process will be objective and fair; and
- employees about whom disclosures are made will generally be given an opportunity to respond to the relevant allegations made in the qualifying disclosure.

The School's employee assistance program (EAP) services will be available to employees affected by the disclosure, should they require that support.

The school will document the steps of the investigation and the findings from the investigation and report those findings to those responsible in the School. The method for documenting and reporting the findings will depend on the nature of the disclosure. There may be circumstances where it may not be appropriate to provide details of the outcome to the discloser.

## 7. Confidentiality and records

Under the *Corporations Act*, the identity of the discloser of a qualifying disclosure and information which is likely to lead to the identification of the discloser must be kept confidential.

Exceptions to this are disclosures to ASIC, the Australian Federal Police, a legal practitioner for the purpose of obtaining advice about the application of the whistleblower protections or made with the consent of the discloser.

If a disclosure involves an issue which the School is required by law or under this policy to report to an external party, the School may not be able to maintain the confidentiality of the identity of the discloser. This disclosure could include NSW Police, the NSW Office of the Children's Guardian, NSW Education Standards Authority or the NSW Department of Education.

It is also permissible to disclose information which could lead to the identification of the discloser if the disclosure is reasonably necessary for the purpose of investigating the matter, if all reasonable steps are taken to reduce the risk that the discloser will be identified as a result of the information being disclosed.

Breach of these confidentiality protections regarding the discloser's identity and information likely to lead to the identification of the discloser is a criminal offence and may be the subject of criminal, civil and disciplinary proceedings.

Records are to be kept for at least 7 years about each aspect of a whistleblowing disclosure from the time of the initial report to the closure of the case. Strict confidentiality is to be observed in relation to handling and storing records.



## 8. Whistleblower protections and support

### 8.1 Confidentiality

Eligible whistleblowers making a qualifying disclosure are protected by the requirement that their identity, and information that may lead to their identification, should be kept confidential, subject to relevant exceptions as set out in Section 7 above.

The School will protect an eligible whistleblower's identity by appropriately redacting documents and referring to the whistleblower in gender-neutral terms. It will also secure all documents and communicate them in a way that will maintain confidentiality.

### 8.2 Immunity

Eligible whistleblowers making a qualifying disclosure cannot be subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure. No contractual or other remedy or right may be enforced or exercised against the person on the basis of the disclosure.

Whistleblowers who make some types of qualifying disclosures (generally external to the School) are also provided immunities to ensure that information they disclose is not admissible in evidence against them in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

These immunities do not prevent an eligible whistleblower being subject to criminal, civil or other liability for conduct that is revealed by the whistleblower, only that the information the person has disclosed is not admissible in certain proceedings against them.

### 8.3 Victimisation / Detriment

Eligible whistleblowers are also protected from victimisation - suffering any detriment by reason of the qualifying disclosure. It is unlawful for a person to engage in conduct against another person that causes, or will cause detriment, where the person believes or suspects that the other person or a third person made, may have made, proposes to make or could make a qualifying disclosure.

Threats of **detriment** are also unlawful.

Detriment has a very broad meaning and includes dismissal of an employee, injuring an employee in their employment, alteration of an employee's position or duties to their disadvantage; discrimination between an employee and other employees; victimisation of a dependant of the discloser, harassment or intimidation of a person or harm or injury to a person, including psychological harassment; damage to a person's property, reputation or business or financial position.

If an eligible whistleblower believes they are being subjected to a detriment or a threat of detriment, this should immediately be reported in writing to the Head of School, via [hos@sacs.nsw.edu.au](mailto:hos@sacs.nsw.edu.au).

If it is not appropriate for the report to be made to the Head of School, the eligible whistleblower should report the matter, in writing, to the Chair of the School Council, via [chair@sacs.nsw.edu.au](mailto:chair@sacs.nsw.edu.au).

The School may also consider a range of other matters to protect an eligible whistleblower from the risk of suffering detriment and to ensure fair treatment of individuals mentioned in a disclosure. Steps it will take to help achieve this may include:

- assessing whether anyone may have a motive to cause detriment - information could be gathered from an eligible whistleblower about:
  - the risk of their identity becoming known;
  - who they fear might cause detriment to them;
  - whether there are any existing conflicts or problems in the workplace; and
  - whether there have already been threats to cause detriment.
- analysing and evaluating the likelihood of each risk and evaluating the severity of the consequences;
- developing and implementing strategies to prevent or contain the risks - for anonymous disclosures, and assessing whether the discloser's identity can be readily identified or may become apparent during an investigation;
- monitoring and reassessing the risk of detriment where required - the risk of detriment may increase or change as an investigation progresses, and even after an investigation is finalised;
- taking steps to ensure that:
  - disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
  - each disclosure will be assessed and may be the subject of an investigation; and
  - the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters disclosed.

The School's employee assistance program (EAP) services will be available to eligible whistleblowers who are employees, should they require that support. If a whistleblower who is not an employee wishes to obtain support, such as counselling or other professional support, they should contact the Head of School.

Remedies available to an eligible whistleblower for being subjected to detriment could include:

- compensation;
- injunctions and apologies;
- reinstatement of a person whose employment is terminated; and
- exemplary damages

Schools and individuals may face significant civil and criminal penalties for failing to comply with confidentiality and detrimental conduct provisions.

## 9. Contacts

The email address for communications under this policy is [whistleblower@sacs.nsw.edu.au](mailto:whistleblower@sacs.nsw.edu.au).

If you have general queries about this policy, you should contact the Executive Director School Services at [edss@sacs.nsw.edu.au](mailto:edss@sacs.nsw.edu.au) for advice.



## 10. Responsibilities

The Council of St Andrew's Cathedral School, the Council of St Andrew's Cathedral Gawura School and the Board of St Andrew's Cathedral School Foundation Ltd are jointly responsible for:

- approving this policy (but may do so separately); and
- monitoring implementation of the Policy to ensure its ongoing effectiveness.

The Head of School is responsible for the comprehensive implementation of this policy, and may appoint a Whistleblower Protection Officer if deemed appropriate to delegate various responsibilities under this policy.

In the event a Whistleblower Protection Officer is appointed, their duties will include to:

- receive disclosures;
- immediately install mechanisms to ensure confidentiality is maintained and whistleblowers are protected from detriment;
- appropriately support disclosers and those named in a disclosure;
- investigate or facilitate investigations;
- keep the Head of School or Chair of the School Council (as may be most relevant from case to case) informed of disclosures, progress of investigations and outcomes; and
- ensure appropriate records are maintained and held securely.

## 11. Document Control

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## 12. Approval

Approver	Date of Approval
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School Council	26 November 2020